

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NOS. 92-341-C and 1999-192-C - ORDER NO. 2002-305

MAY 15, 2002

IN RE: Docket No. 92-341-C – Application of	)	ORDER CANCELLING
Network Plus, Inc. for a Certificate of Public	)	CERTIFICATE AND
Convenience and Necessity to Provide	)	WITHDRAWING
Competitive InterLATA, Intrastate	)	TARIFFS
Telecommunications Between and Among	)	
Locations within the State of South Carolina	)	
as a Switchless, Non-facilities Based	)	
Interexchange Telecommunications Resale	)	
Provider.	)	
	)	
Docket No. 1999-192-C – Application of	)	
Network Plus, Inc. to Amend its Certificate of	)	
Public Convenience and Necessity to Include	)	
Authority to Provide Facilities-Based and	)	
Resold Local Exchange Telecommunications	)	
Services and Facilities-Based Interexchange	)	
Telecommunications Services in South	)	
Carolina.	)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Network Plus, Inc. (“Network Plus” or the “Company”) requesting authority, pursuant to S.C. Code Ann. § 58-9-300, to discontinue telecommunications services in the State of South Carolina, to surrender its Certificate to provide telecommunications services in South Carolina and to cancel all applicable tariffs.

Network Plus advises the Commission, through its Application filed with the Commission April 10, 2002, that recent events have caused the commencement of

procedures by BellSouth Telecommunications, Inc. (“BellSouth”) to terminate underlying telecommunications services that are necessary for Network Plus’ ability to provide long distance service to its South Carolina customers. Such services will be disconnected on May 10, 2002, pursuant to BellSouth’s notice. Therefore, Network Plus requests that its Application be processed expeditiously so that it may discontinue service on May 10, 2002.

### **BACKGROUND**

Network Plus provides resold interexchange telecommunications services in South Carolina pursuant to a Certificate of Public Convenience and Necessity granted by Commission Order No. 93-1 issued January 4, 1993 in Docket No. 92-341-C. Additionally, the Commission granted Network Plus an amended Certificate of Public Convenience and Necessity to provide local exchange services in South Carolina by Order No. 1999-577, issued August 17, 1999, in Docket No. 1999-192-C.

By letter dated February 6, 2002, Network Plus notified the Commission that the Company had filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code. On March 5, 2002, the United States Bankruptcy Court for the District of Delaware (“Bankruptcy Court”) approved a Stipulation and Order Granting Adequate Assurance to Certain Utilities (“Stipulation”). In part, the Stipulation provides that failure to make payment to any utility listed in the Stipulation enables such utility to disconnect service to Network Plus upon 24-hours facsimile notice in accordance with contracts, unless local telephone service is being disconnected, which requires at least 35 calendar days notice. BellSouth did not receive payment on April 1, 2002, in accordance with the

Stipulation, nor was such failure to pay cured within three business days as provided in the Bankruptcy Court Order, which approved the sale of Network Plus to Broadview NP Acquisition Corp. (the “Sale Order”).<sup>1</sup> BellSouth notified Network Plus on April 6, 2002, that it would disconnect services to Network Plus on May 10, 2002, pursuant to the Stipulation. Network Plus asserts that the services provided by BellSouth are essential in the provision of service to Network Plus customers in South Carolina and, as a result, Network Plus cannot continue to provide service in South Carolina following BellSouth’s disconnection.

#### **DESCRIPTION OF DISCONTINUANCE**

Network Plus plans to discontinue its entire telecommunications services within the State of South Carolina on May 10, 2002. Presently Network Plus provides long distance telecommunication service, international telephone service, and toll free service to business customers located in South Carolina. The discontinuance of services will affect approximately 92 customers in South Carolina. Additionally, Network Plus states that written notice of the discontinuance of service, dated April 8, 2002, has been provided to customers. A copy of Network Plus’ customer notice letter was attached to the Company’s Application as Exhibit A.

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<sup>1</sup> See Order Authorizing (i) Sale of Certain of the Debtors’ Assets Free and Clear of Liens, Claims Encumbrances, and Other Interests, (ii) Authorizing the Assumption and Assignment of Executory Contracts and Leases, (iii) Authorizing the Debtors to Enter into and Approving Management Agreement, (iv) Approving Regulatory Transition Process, (v) Determining that such Sale is Exempt from Stamp, Transfer, Recording or Similar Taxes and (vi) Granting Related Relief, Case no. 02-10341 (PJW) (March 20, 2002) (Bankr. D. Del.).

### **PUBLIC INTEREST CONSIDERATIONS**

Network Plus provides that, while regrettable, disconnection of its customers in South Carolina is necessary and appropriate, and will not adversely affect the public convenience and necessity. Further, Network Plus believes that the public will not be unduly harmed by the discontinuance of the Company's telecommunications services because customers have been given notice, which affords them the opportunity to transfer to a new carrier.

### **CONCLUSION**

According to Network Plus, the proposed discontinuance of services, the voluntary surrender of its Certificate of Public Convenience and Necessity to provide telecommunications services in South Carolina and the cancellation of the Company's applicable tariffs are reasonable and necessary and not unduly disruptive to the present or future public convenience and necessity.

Upon consideration of this matter, the Commission finds and concludes that the request of Network Plus to cancel its Certificate of Public Convenience and Necessity and to withdraw its tariffs should be granted.

#### **IT IS THEREFORE ORDERED THAT:**

1. The Certificate of Public Convenience and Necessity to provide resold interexchange telecommunications services within the State of South Carolina authorized by Order No. 93-1 dated January 4, 1993, issued in Docket No. 92-341-C and as amended to provide resold and facilities-based local exchange and facilities-based interexchange telecommunications services by Order No. 1999-577 dated August 17,

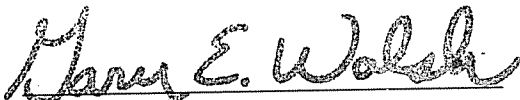
1999, issued in Docket No. 1999-192-C to Network Plus, Inc. is hereby cancelled, and the Company's applicable tariffs are withdrawn, effective May 10, 2002.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)